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Access to medication in the context of pandemics such as HIV/AIDS

Report of the Secretary-General

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I. INTRODUCTION

1. In its resolution 2001/33, the Commission on Human Rights recognized that access to medication in the context of pandemics such as HIV/AIDS is a fundamental element for achieving progressively the full realization of the right of everyone to the enjoyment of the highest available standard of physical and mental health. The Commission requested the Secretary-General to seek the views of Governments, intergovernmental and non-governmental organizations on the steps they have taken to promote and implement, where appropriate, the resolution. The present report summarizes replies received from States and intergovernmental and non-governmental organizations to the notes verbales and letters sent on 27 August 2001, and is submitted in accordance with resolution 2001/33.

2. Information was received from the Governments of Argentina, Belarus, Brazil, Finland, Georgia, Guatemala, Mexico, New Zealand, Thailand, Tunisia and Zambia. Information was received from the United Nations Secretariat (Department of Economic and Social Affairs), the United Nations Economic Commission for Africa, the International Labour Organization, the Joint United Nations Programme on HIV/AIDS, the United Nations Educational, Scientific and Cultural Organization, the United Nations Population Fund, the World Intellectual Property Organization, the World Trade Organization, and the European Commission. The National Human Rights Commission of France, the National Human Rights Commission of Mexico and the New Zealand Human Rights Commission also provided relevant information. Contributions were received from the following non-governmental organizations: the Council for International Organizations of Medical Sciences, the International Council of AIDS Service Organisations, the International Council of Nurses, and Medecins sans frontières.

II. CONTRIBUTIONS FROM STATES

3. The Government of Argentina emphasized that universal access to antiretroviral treatment is a basic human right of people living with HIV/AIDS, and noted that Argentina is among the few countries in the region with experience in providing such treatment free of charge. It urged that, in the light of the growing number of people living with HIV/AIDS in countries around the world, methods and mechanisms for purchasing and distribution should be reviewed with a view to guaranteeing universal coverage and reducing costs without lowering quality. The Government stressed the need for health services and training to ensure effective care for patients.

4. In Argentina, the National Programme to Combat Human Retroviruses, AIDS and STDs was established in 1992 to promote HIV/AIDS prevention, provide care for people infected with HIV and eliminate all forms of discrimination. Access to antiretroviral treatment was made universally available following the adoption of Act 24455 (1995) and Act No. 24754 (1996). Social welfare bodies are obliged to provide care and medicines to persons living with HIV/AIDS, and benefits for such care are to be covered under compulsory medical health insurance schemes. The Ministry of Health set up a Management Unit in 1997 to purchase and distribute antiretroviral medicines for triple therapy, and to make laboratory control methods available to beneficiaries without social security or private health-care coverage.

In January 2000, the Ministry of Health established an HIV/AIDS and STD Executive Coordinating Unit to coordinate activities, improve efficiency and rationalize resources related to HIV/AIDS and STDs.

5. The Government of Belarus reported the establishment of a National Interdepartmental Council on the Prevention of HIV Infection and Venereal Diseases (RMVS), which is composed of 12 deputy ministers and chaired by the Deputy Prime Minister. The main tasks of the Council are to coordinate prevention efforts; to study the reasons for the spread of HIV and venereal disease infection and to devise effective means of preventing it; to conduct joint awareness-raising efforts on HIV/AIDS and venereal diseases; to propose ways of improving social support for people living with HIV and AIDS, as well as for medical workers; and to promote international cooperation on issues related to HIV/AIDS and venereal diseases. Committees also have been set up in all cities and districts in Belarus to coordinate HIV/AIDS-related work. The Council's decisions provide guidance on HIV/AIDS-related issues to governmental departments and voluntary associations. They also facilitate the establishment of partnerships and encourage other entities to engage in prevention efforts.

6. In Belarus, the State Programme for the Prevention of HIV/AIDS (1997-2000) defines the roles and responsibilities of the various ministries and other State bodies to counter HIV infection. A State Programme for 2001-2005 recently was approved and activities are under way in various departments. The Ministries of Health and Education, for example, have introduced teaching programmes on HIV/AIDS for educational workers attending advanced training courses and students at various levels. The Ministry of Culture is actively engaged in education for the young, including through the organization of various shows and cultural events, mobile exhibitions, and poster and screenplay contests. The Ministry of Defence has organized courses for the prevention of HIV infection, venereal diseases and drug addiction for military personnel. The Ministry of Internal Affairs is conducting HIV prevention campaigns for people attending institutions run by the Penal Correction Committee. With United Nations backing, a pilot project involving preventive intervention among detainees is being introduced and has been in operation at one of the Republic's prisons since April 1999. The Government relies primarily on the media to disseminate information on HIV/AIDS targeting, in particular, the groups most vulnerable to HIV infection such as drug addicts, military personnel, prisoners and homosexual men. The Ministry of Housing and Municipal Services is helping with the public awareness-raising by training staff, distributing public information material and selling condoms. The Ministries of Industry, Transport and Communications, and Trade are engaged in similar efforts. Prevention of mother-to-child HIV transmission has been a part of regular midwifery and gynaecological practice in Belarus since 1997.

7. The Government of Brazil has guaranteed universal and free access to antiretroviral drugs since 1996, and currently provides antiretroviral treatment to those in need through 424 medicine distribution centres all over the country. According to the Government, this policy has prevented over 234,000 hospital admissions, creating a total saving to public funds of about US$ 677 million. In 2000 the number of hospital admissions dropped by 80 per cent in comparison with the number of yearly admissions between 1996 and 1999. Opportunistic infections have showed a significant decline, with tuberculosis in HIV-positive

patients down by 60 per cent, cytomegalovirus infection declined by 54 per cent and Kaposis'arcoma by 38 per cent. The Government reported that in the last six years, the rate of AIDS-related mortality has fallen by 50 per cent.

8. The Government attributes these successes to the availability of low-cost, locally manufactured antiretroviral medicines. Over the past few years the prices of antiretroviral drugs acquired by Brazil's Ministry of Health gradually have fallen, due primarily to the production of these drugs by government laboratories and through price negotiations with exclusive suppliers. As a result of such initiatives, there has been an average price reduction of 72.5 per cent, or eight times higher than the reduction observed in the international market. The policy of price reduction for appropriate drugs has had a significant impact in Brazil: in 2000 Brazil saw both an increase in the number of patients receiving treatment and a 10 per cent cost reduction in comparison with 1999. The Government currently spends US$ 303 million per year on its drug distribution programme, a figure which it claims would read US$ 530 without the price reduction.

9. In its contribution, the Government of Finland emphasized the important role played by an effective and accessible primary health care system on the prevention of the spread of communicable diseases. The Government reported that pharmaceuticals, including drugs for the treatment of opportunistic infections, are free for those infected with HIV in Finland. HIV testing is available in all health care units and several HIV/AIDS counselling units provide anonymous testing. Finland also has promoted access to medication at the international level, through the World Health Organization (WHO) and at international meetings such as the United Nations General Assembly special session on HIV/AIDS. The Ministry of Social Affairs and Health has been active in the fight against communicable diseases in the Baltic region through the framework approved by the prime ministers of the region. The Government noted that its fifth periodic report to the Committee on Economic, Social and Cultural Rights, which will be submitted in June 2005, will include information on the issue of access to medication.

10. The Government of Georgia referred to its second periodic report to the Committee on Economic, Social and Cultural Rights, which contains detailed information on the implementation of the right to the highest attainable standard of mental and physical health. The Government's most recent periodic report to the Committee on the Rights of the Child on the implementation of the Convention on the Rights of the Child also reflects some of the ways the Government is tackling sexually transmitted diseases, and particularly HIV/AIDS, among children. The Government underscored the significant economic and financial difficulties which limit its full compliance with the provisions of these treaties, but underscored the fact that Georgian legislation contains no provisions that could be used to deny or limit equal access for all people to adequate medical treatment or pharmaceuticals.

11. The Government of Guatemala recalled that the first case of AIDS was reported in 1984 and that by 30 April 2001, a total of 4,010 cases had been reported. It noted, however, that these figures do not reflect the fact that an estimated 50 per cent of cases are unreported. In Guatemala, HIV is passed on primarily by sexual transmission (94 per cent), blood transmission (2 per cent) and vertical transmission (4 per cent), with people living in urban areas at the greatest risk. The rate of HIV infection among women has risen dramatically since the start of the epidemic.

12. According to the Health Code in Guatemala, the Ministry of Health is responsible for evaluating and monitoring action to control sexually transmitted diseases and HIV/AIDS. The Code contains provisions relating to the human rights of persons living with HIV/AIDS and makes it compulsory for the Ministry of Education to include a unit in school curricula from the fifth primary grade on human sexuality, sexually transmitted diseases and HIV/AIDS. The Ministry of Health, in cooperation with other government ministries, civil society organizations, international organizations and UNAIDS, formulated a National STD/HIV/AIDS Strategic Plan for the period 1999-2003. Through the National Health Council, the Ministry of Health also has taken steps to establish a National Unit to Care for Persons Living with HIV/AIDS to develop mother and child prevention programmes, including diagnostic tests; standardize diagnosis systems; offer antiretroviral treatments; provide outpatient medical care; and carry out HIV/AIDS research.

13. The Ministry of Health has established an HIV/AIDS Epidemiological Analysis Commission which monitors the scope and magnitude of the epidemic with a view to providing guidance on initiatives relating to health promotion, prevention and rehabilitation. The Committee on Access to Antiretroviral and HIV Reagent Medicines has also been established to develop strategies for improving the quality, affordability and accessibility of antiretroviral medicines. The Ministry has stepped up efforts, together with sectoral agencies such as the Guatemalan Social Security Institute, to improve access to these medicines and offer care alternatives to persons living with HIV/AIDS. The Government reported that national social security provides for treatment for those who need it, but noted that less than 20 per cent of the population is covered, and many people living with HIV/AIDS therefore are excluded from the system. Treatment and care are provided to people living with HIV/AIDS under several projects around the country, such as the Luis Ángel García Clinic and the Roosevelt Hospital Infectious Diseases Clinic. The Government estimates that a total of 1,216 persons are now receiving antiretroviral treatment in Guatemala.

14. The Government of Mexico reported that the National Centre for the Prevention and Control of HIV/AIDS (CENSIDA) has developed a Programme of Action for the Prevention and Control of HIV/AIDS and Sexually Transmitted Diseases for the period 2001-2006 which reflects the goals and objectives contained in the United Nations General Assembly Declaration of Commitment on HIV/AIDS. The Programme of Action seeks to achieve a better allocation of resources and to increase participation of institutions in the health and other sectors at the federal level in the fight against HIV/AIDS and sexually transmitted infections (STI). It proposes to use national and State accounts to monitor the development of strategic activities under the Programme of Action for the Prevention and Control of HIV/AIDS and STI.

15. In Mexico, the Social Security Institute currently provides antiretroviral medication (ARVs) to 14,000 people living with HIV/AIDS, while the Civil Service Social Security System supplies ARVs to 1,756 people living with HIV/AIDS. The Ministry of Health is providing antiretroviral medication to around 3,000 persons through a combination of federal and State funds. The Government estimates that an equal number of people living with HIV/AIDS are not insured and therefore do not have access to this medication.

16. Article 96 of the General Health Act regulates the conduct of health-related research, including the national production of health products such as antiretroviral medication. However, the Government reported that it has been unable to manufacture these drugs at a lower cost due to patent laws and its obligations under international trade law. Nevertheless, the Ministry of Health recently has entered agreements with laboratories producing antiretroviral medications in order to reduce its cost for the health sector, and to provide coverage for new patients.

17. The Government of New Zealand's response to the AIDS epidemic is based on the following five areas of health promotion, as set out in the Ottawa Charter for Health Promotion: building health public policies, creating supportive social environments, strengthening community action, developing personal skills, and reorienting health services. The Government recognizes the need to acknowledge vulnerable groups, protect and promote their human rights, and tailor specific prevention and care strategies to their needs as part of an effective national strategy to counter HIV and AIDS. In this regard the Government noted that its domestic policies and legislation are consistent with the International Guidelines on HIV/AIDS and Human Rights. Treatment and care are provided in a number of health settings in New Zealand, including general practice, sexual health centres, specialist units in major hospitals, and hospices. Care and support are also available from voluntary groups in many areas, supported by the New Zealand AIDS Foundation.

18. In recommending drugs for subsidy, the Pharmaceutical Management Agency in New Zealand seeks to balance the needs of patients for equitable access to health care with the needs of taxpayers for responsible financial management. The regulatory unit of the Ministry of Health is responsible for applying a framework of controls designed to ensure that benefits of the therapeutic products available in New Zealand outweigh the risks associated with them. Legislation regulating medicines, for example, is designed to manage the risk of avoidable harm associated with the use of medicines, to ensure that medicines meet acceptable standards of safety, quality and efficacy, and to see that information about the selection and safe use of medicines is available to health professionals and consumers. The Government stressed that while access to appropriate affordable treatment is important, effective HIV prevention programmes are more important.

19. The Government of Thailand reported that it has allocated resources, developed personnel training programmes and established a National AIDS Prevention and Control Programme in response to the epidemic. The country currently is impiementing its second five-year plan, the objectives of which are to reduce and control the spread of HIV/AIDS and to lessen its social, economic and health impact on individuals, their families and their communities. The Government pointed to the high priority it places on the issue of access to medication, treatment and services. The new national health policy, "30 baht for all diseases", guarantees care and treatment for opportunistic infections such as tuberculosis and pneumocystis carinii pneumonia (PCP). The Committee and Subcommittee of Pharmaceutical and Medical Service were established to improve the quality and reduce the price of HIV/AIDS medicines. The Government reported that its approach to antiretroviral drugs is based on the recognition that these drugs improve people's health such that they may eventually be able to return to work.

20. With regard to research and development, the Government reported the recent adoption of a plan to standardize and improve the quality of laboratories which study HIV/AIDS and related diseases. Particular attention is being paid to reducing mother-to-child HIV transmission, as well as to exploring new methods for expanding behavioural surveillance to improve adolescent health. The Government underscored the need for more funding to cover medical expenses, in the light of the growing number of people living with HIV and AIDS.

21. The Government of Tunisia noted that the right to health is a key element of its national strategy for promoting human rights. Vaccines and medication for the prevention and treatment of communicable diseases, for example, are available free of charge in all public health facilities as part of the ongoing efforts to improve access to health services. Laws 92/63 and 92/71, regulating the treatment of communicable diseases, emphasize the right of all people to the best possible protection of health without discrimination and provide that people affected by diseases such as HIV/AIDS have the right to free medical treatment and care, which are made available under the national health programme. With regard to HIV/AIDS, medicines to treat opportunistic infections, antiretroviral medication and other products related to triple therapy are available free of charge under the national programme.

22. The Government referred to its National Law No. 2000-84 of 28 August 2000 regarding intellectual property rights and public health which, it noted, comply with Tunisia's obligations under international trade law while guaranteeing respect for human rights. The Government stressed that the promotion and protection of human rights should include access to medication in the broadest sense, including for diseases other than HIV/AIDS.

23. The Government of Zambia reported the near completion of its national policy on HIV/AIDS, STDs and tuberculosis, which addresses issues related to HIV/AIDS and human rights including stigma and discrimination, HIV/AIDS in the workplace, access to drugs and related technologies for people living with HIV/AIDS, improving quality of care in health facilities, improving treatment of opportunistic infections and implementing measures to ensure the availability of drugs and laboratory service, and strengthening prevention as the mainstay in the fight against HIV/AIDS. With regard to the issue of access to medication, the Government noted the development of Clinical Management Guidelines as well as a document to guide the introduction of antiretroviral drugs in Zambia. The Government currently is negotiating with pharmaceutical companies with a view to increasing the availability of medication at a low cost to people living with HIV/AIDS.

III. CONTRIBUTIONS FROM UNITED NATIONS BODIES, SPECIALIZED AGENCIES AND RELATED ORGANIZATIONS

24. The Department of Economic and Social Affairs of the Secretariat recalled a number of relevant initiatives stemming from the World Summit for Social Development and the twenty-fourth special session of the General Assembly. The promotion of the highest attainable standard of mental and physical health, access for all to primary health care on an equitable and non-discriminatory basis, and the provision of medicines at affordable prices to address pandemics such as HIV/AIDS have been central objectives of the Social Summit process and its five-year review. The Summit determined that communicable diseases constitute a serious health problem in all countries, and that these diseases hinder social development and often

cause poverty and social exclusion. It concluded that the prevention, treatment and control of diseases including tuberculosis, malaria and HIV/AIDS should be given the highest priority, and that social protection systems should be strengthened and expanded, with particular attention to people affected by HIV and AIDS. HIV/AIDS is identified as a major obstacle to achieving social development objectives, particularly poverty eradication, in the Secretary-General's report on the implementation of the outcome of the Summit (A/AC.253/13-E/CN.5/2000/2).

25. The Department drew attention to the recommendations outlined in the outcome document of the Special Session (resolution S-24/2) to improve access to affordable medicines, in particular to address HIV/AIDS. In its resolution the General Assembly encouraged Governments, the international community, the private sector and other actors to strengthen political commitment and efforts at the international and national levels against HIV/AIDS; support arrangements to mobilize commercial enterprises to invest in research aimed at finding affordable remedies for diseases that particularly afflict people in developing countries; recognize the right of everyone to the highest attainable standard of mental and physical health, the importance of access to affordable essential medicines, and the contribution of intellectual property rights to promote research, development and distribution of drugs; and provide support for research and development centres in Africa and the least developed countries on vaccines, medicines and public health. It encouraged the World Health Organization to work with Governments and other international organizations in monitoring and analysing the pharmaceutical and public health implications of relevant international agreements, including trade agreements, with a view to enabling Governments to develop pharmaceutical and health policies and regulatory measures, and to maximize the positive and mitigate the negative impact of those agreements. The Assembly also encouraged UNAIDS and its co-sponsors to support countries most affected by HIV/AIDS in their efforts to promote wider access to quality medication by securing the provision of affordable drugs; implementation of a strong generic drug policy; bulk purchasing; negotiation with pharmaceutical companies; appropriate financing systems; and encouragement of local manufacturing and import practices.

26. The Economic Commission for Africa recalled that the African Consensus and Plan of Action: Leadership to Overcome HIV/AIDS, adopted at the African Development Forum 2000, calls for strong involvement by all stakeholders as well as leadership commitment at personal, community, national, regional and international levels. On the issue of access to medication, the Consensus and Plan of Action calls for a scaling up of resources and systems necessary to ensure that antiretroviral and other essential medicines are made available to the widest possible population, including through the local production of pertinent pharmaceuticals. The Consensus and Plan of Action stresses the need for a continental strategy, in partnership with international donors and pharmaceutical companies, to ensure the availability of affordable antiretroviral drugs. It encourages the rapid implementation of commitments by the International Partnership against AIDS in Africa to bringing antiretrovirals within reach of African people living with HIV/AIDS.

27. The Commission noted that several national workshops have been held as follow-up to the African Development Forum, focusing on the need for political leadership and commitment of sufficient resources at all levels, including through the enforcement of respect for human rights in the context of HIV/AIDS; the provision of drugs to reduce mother-to-child

transmission; and the establishment of intercountry and inter-subregional networking. The Commission plans to monitor the implementation of these, including by ensuring that the Consensus and Plan of Action are kept high on the agenda of meetings of African leaders.

28. The Commission pointed to the meeting of the Organization of African Unity Heads of State and Government held in Abuja in April 2001, which addressed the challenges of HIV/AIDS, tuberculosis and other related infectious diseases in Africa. The objectives of the meeting were to develop strategies to prevent and control the impact of HIV/AIDS on socio-economic development in Africa, and to translate the commitments made by African leaders into social and resource mobilization for prevention, care and treatment, and sustainable programming of primary health care. In adopting the Abuja Declaration at the summit, OAU member States recognized the need to intensify efforts in all areas of research, including traditional medicines and vaccine development; identified AIDS as a state of emergency on the continent and called for a lifting of all tariff and economic barriers to access to funding for AIDS-related activities; resolved to take all necessary measures to ensure that resources are made available from all sources, and that they are efficiently and effectively used; supported the creation of a Global AIDS Fund accessible to all affected countries; undertook to mobilize all resources required for the care, support and treatment of populations affected by HIV/AIDS, tuberculosis and other infectious diseases; and resolved to enact and use appropriate legislation and international trade regulations to ensure the availability of drugs at affordable prices and of technologies for treatment, care and prevention of these diseases. The heads of State and Government committed themselves to develop the potential of traditional medicines in the prevention, care and management of HIV/AIDS and other related infectious diseases, and to support the development of effective affordable, accessible HIV vaccine relevant to Africa.

29. On the issue of trade-related intellectual property rights, the Commission recalled the recommendations of the preparatory meeting to the Fourth WTO Ministerial, held from 26 to 29 June 2001, which stated that the TRIPS Agreement does not prohibit member States from taking measures to provide access to medicines at affordable prices and to promote public health and nutrition.

30. The Commission noted that human development is a priority under the New African Initiative, which calls for increased investment by both African Governments and development partners to build effective health interventions and secure health systems. The Initiative calls also for strengthening Africa's participation in processes aimed at making drugs affordable, including those involving the international pharmaceutical companies and international civil society, and for exploring the use of alternative delivery systems for essential drugs and supplies.

31. In June 2000, the General Conference of the International Labour Office adopted a resolution concerning HIV/AIDS and the world of work, which recognizes that the non-availability and limited access to affordable HIV/AIDS-related drugs and treatments in developing countries has contributed to the spread and impact of the disease in those countries. As a follow-up to the resolution, in June 2001 the ILO published a Code of Practice on HIV/AIDS and the World of Work. The Code provides practical guidance to Governments, employers and workers in the formulation of policies and programmes at national and enterprise levels to combat HIV/AIDS. The Code is based on prevention of the epidemic and protection of the rights of the persons infected and affected by HIV/AIDS.

32. UNAIDS reported on the comprehensive care approach being promoted by the UNAIDS secretariat and its eight co-sponsors. This approach includes voluntary counselling and testing and psychosocial support, prevention and treatment of opportunistic infections, good nutrition, strengthening of health systems, fair and sustainable financing and, where possible, access to antiretroviral drugs. According to UNAIDS, these elements should form part of a broad public health approach to HIV/AIDS, undertaken simultaneously with the further expansion of prevention activities, including the prevention of mother-to-child transmission.

33. The UNAIDS secretariat, in partnership with its co-sponsors, other United Nations partners and the pharmaceutical industry, has strengthened and expanded its programme on accelerating access to HIV/AIDS care, treatment and support. As set out in the May 2000 Joint Statement of Intent, the United Nations-industry partnership was based on a set of principles including unequivocal and ongoing political commitment by national Governments; strengthened national capacity; engagement of all sectors of national society and the global community; efficient, reliable and secure distribution systems; significant additional funding from new national and international sources; and continued investment in research and development by the pharmaceutical industry. Accelerating access has involved dialogue between the United Nations and the pharmaceutical industry to make quality drugs more affordable in developing countries, technical collaboration with countries in the development of national programme capacity to deliver care, treatment and support, as well as consultation with Governments and NGOs through a Contact Group.

34. UNAIDS has been actively involved in facilitating greater access to care and treatment, assisting countries and Governments to identify options to increase care and support, and supporting countries in the implementation of their chosen options. A network of consultants from African and American countries have been appointed and trained to speed up the process of country support. In providing assistance to countries, the United Nations continues to press its broad objective, to enhance progressively the capacity of countries to increase access to, and use of, sustainable, comprehensive and quality HIV/AIDS interventions across the entire spectrum of prevention, treatment and patient care and support, including prevention of perinatal transmission. UNAIDS has also been involved in mobilizing the vastly increased resources needed for care and treatment, in particular supporting consultations on the establishment of the Global AIDS and Health Fund and encouraging the flow of debt relief funds towards HIV/AIDS prevention and care programmes.

35. The World Bank's Multi-Country HIV/AIDS Prevention and Control Programme (MAP) has recently approved a package of International Bank for Reconstruction and Development loans and International Development Association grants for several Caribbean countries. The Bank has agreed that, under certain conditions, parts of these loans may be assigned to the purchase of antiretroviral drugs. Barbados was the first country to meet these conditions and therefore is able to draw on World Bank loan funds to finance access to antiretrovirals. While MAP Phase I objectives in Africa cover capacity-building for HIV/AIDS activities, including the infrastructure to facilitate access to treatment, MAP Phase II will more directly address access in selected countries.

36. UNICEF is a key partner in United Nations efforts to implement programmes for the prevention of mother-to-child transmission of HIV/AIDS (PMCT). As a result of price reductions and donations of antiretroviral drugs, programmes are now fully operational at 79 sites and in two national programmes in 16 countries in Africa, Asia, Central and Eastern Europe and Latin America. As at July 2001, the programmes had reached over 300,000 women: 220,000 women had received counselling, 138,000 have been tested for HIV, 11,400 HIV-positive mothers had been identified and over 4,500 had received antiretroviral therapy.

37. WHO has engaged in a number of initiatives to increase access to care, treatment and support for people living with HIV/AIDS. In May 2001, WHO convened a consultative meeting on the use of antiretroviral drugs in resource-limited settings. The meeting resulted in the establishment of two technical working groups to develop simplified ARV treatment guidelines and create a surveillance network for ARV drug resistance. A second consultation on antiretroviral therapy in November 2001 addressed the merits of different antiretroviral treatment regimens in terms of efficacy, toxicity, ease of use, ease of distribution, ease of monitoring, and likelihood of compliance. Participants at the meeting selected regimens that should be considered first-line regimens in resource-constrained settings. There was consensus that in most resource-constrained settings, where the expertise to manage the toxicity of drugs on an individual basis is weak, toxicity or failure of a first-line regimen should lead to its replacement with an entirely new second-line regimen. The meeting concluded with a series of recommendations, which are now being discussed in terms of their utility to developing countries. While this research is ongoing WHO will continue to support the further introduction of antiretrovirals in developing country settings.

38. Other WHO initiatives which reinforce efforts to increase access to quality HIV/AIDS care, treatment and support include the production of a practical guide on the use of Nevirapine in the prevention of mother-to-child transmission. In association with UNAIDS, UNFPA, UNICEF and the World Bank, WHO has initiated a project designed to ensure the pre-qualification of suppliers of HIV/AIDS-related pharmaceutical products, to set up a model quality-assurance system for procurement of pharmaceuticals, and to set out guidelines on the quality of pharmaceutical products related to HIV/AIDS. A joint WHO-WTO workshop on differential pricing in April 2001 explored the conditions required to bring into effect differential pricing for essential drugs. Further work on this is being pursued in collaboration with the TRIPS Council of the WTO.

39. In April 2001, several pharmaceutical companies participated in a meeting with the United Nations Secretary-General to discuss options for intensifying the joint United Nations-industry contribution to increase access to HIV medicines and treatments. At a subsequent meeting in July, the UNAIDS secretariat and UNAIDS co-sponsors met with industry representatives to discuss progress and future steps in accelerating access. The meeting reviewed progress and highlighted several areas for further attention, including the need for expanded financing and health system development, regional collaboration, and increased affordability of drugs and diagnostics. Industry representatives indicated that they would welcome broadening the partnership to include companies that market generic drugs consistent with international agreements. Meeting participants agreed that intellectual property protection is key to bringing forward urgently needed new medicines, vaccines and diagnostics and the companies continue their efforts to discover and develop these new technologies.

40. The companies involved have since adopted a number of measures to expand access to health care including: (a) continued and accelerated initiatives to make HIV/AIDS-related drugs more affordable to developing countries, particularly in sub-Saharan Africa; (b) enhanced partnerships with qualified non-governmental organizations and appropriate private companies offering health care to employees and local communities; and (c) concerted efforts to provide the necessary training to local health practitioners. Agreements have been reached with some companies to lower prices for groups of least developed countries. Individual industry partners have undertaken a number of initiatives, including through public offers to supply products at no profit, below cost, or free to qualifying countries. Companies have built on existing initiatives and implemented broader partnerships, working with Governments, NGOs and health care organizations in developing countries to improve access to HIV care and treatment. These programmes include efforts to train health care professionals, build health infrastructure and capacity, strengthen the role of NGOs in the continuum of care, implement interventions designed to prevent mother-to-child transmission of HIV and treat other targeted populations.

41. By mid-September 2001, 71 countries had indicated their interest in collaborating with UNAIDS on access to care and support. Twenty-six of these have completed or are in the advanced stages of developing national care and treatment plans, most on the basis of some technical collaboration with the United Nations. Thirteen have reached agreement with manufacturers on significantly reduced drug prices in the context of national plans. Consideration has been given to developing a regional approach to expand the benefits more rapidly, for example through the possibility of bulk purchasing, shared technical assistance and joint resourcing. Regional initiatives involving the development of regional plans for care, treatment and support are well under way in the Caribbean and western and southern Africa, and a first regional meeting on access is to be held this year in South-East Asia.

42. The UNAIDS secretariat noted that there are constraints on increased access to medications, including a low uptake of low-priced antiretrovirals due to limited infrastructure for managing patient care and for providing laboratory support, and limited funding to cover the cost of the drugs, laboratory reagents and other commodities. Companies have not been able to report significant movement of products due to a lack of infrastructure and trained personnel in developing countries, uncertain and inadequate financing for care in the most affected countries, reluctance by some Governments to fund antiretroviral purchase, and high price levels. There are high expectations that the Global AIDS and Health Fund will increase the level of resources available to support a broad care agenda, including for antiretrovirals.

43. UNESCO stressed the importance of ensuring access to medication for all people living with HIV/AIDS, but noted that there is a considerable lack of clarity as to the means for providing available medication to those in need. UNESCO further noted that people living with HIV and AIDS must be provided with appropriate information and guidance on available medication and technologies in order to make informed decisions regarding their medical treatment and care. UNESCO underscored the need to support and advance efforts at prevention through education to stop the further spread of HIV.

44. UNFPA reported on its continued efforts towards the prevention of HIV transmission, particularly for young people and mothers, through comprehensive programmes to supply condoms and the promotion of gender equity, equality and non-discrimination of those infected

with or affected by the epidemic. Through an accelerated access-to-drugs initiative with UNAIDS, UNICEF and WHO, UNFPA strives to (a) create standardized pre-qualification criteria for pharmaceuticals and medical technologies; (b) create a list of reliable suppliers of these products for use by international organizations; (c) offer procurement services to those in need; and (d) lend UNFPA experience and procurement expertise to the process of negotiating with the big pharmaceutical companies to obtain price reductions. UNFPA also works with other UNAIDS co-sponsors through the United Nations Theme Group on HIV/AIDS towards the prevention of mother-to-child transmission, including with regard to access to quality preventive commodities, access to antiretrovirals, and screening for and treatment of STIs in pregnant women. In relation to supply of commodities and logistics management, UNFPA has partnered with other United Nations agencies, Governments, donors, NGOs and private sector entities to develop and implement the Reproductive Health Commodities Securities Strategy to improve reproductive health by improving the capacity of national programmes in developing countries to manage key areas of reproductive health commodity supply. UNFPA pays particular attention in its work to the vulnerability of women and girls to HIV infection, and supports partnerships to monitor violations of the reproductive rights of women and girls.

45. WIPO reported that it is working with WHO to improve collaboration to address issues related to intellectual property and health, particularly with regard to pandemics such as HIV/AIDS.

46. The World Trade Organization reported the adoption, at the Fourth Session of the WTO Ministerial Conference in November 2001, of a Declaration on the TRIPS Agreement and Public Health. This Declaration is designed to respond to the concerns that have been expressed about the possible implications of the TRIPS Agreement for access to drugs. The Declaration emphasizes that the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health, and reaffirms the right of Members to use to the full the provisions of the TRIPS Agreement which provide flexibility for this purpose. Second, the Declaration makes it clear that the TRIPS Agreement should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health. This provision gives important guidance to both individual Members and, in the event of disputes, WTO dispute settlement bodies. Third, while maintaining Members' commitments in the TRIPS Agreement, the Declaration includes a number of important clarifications regarding the flexibilities available in the Agreement, in particular compulsory licensing and parallel importation. In addition, the Declaration provides for an extension until 2016 of the transition period for least-developed countries in regard to the protection and enforcement of patents and undisclosed information with respect to pharmaceutical products. With regard to the ability of countries with limited manufacturing capacities to make effective use of compulsory licensing, the Declaration recognizes the problem and instructs the WTO Council for TRIPS to find a solution before the end of 2002.

IV. CONTRIBUTION FROM THE EUROPEAN COMMISSION

47. The European Commission noted the toll that HIV/AIDS and other communicable diseases take on human development. In this regard it noted that the main objective of EC development policy, as set out in COM (2000)212 of 26 April 2000, is to foster sustainable development with a view to eradicating poverty in developing countries and to integrating them

into the world economy. A new policy framework was adopted in September 2000 on "accelerated action targeted at major communicable diseases within the context of poverty reduction" (COM 2000/585 of 20 September 2000), followed by the adoption of a five-year Programme of Action (COM 2001/96) on 21 February 2001. The Programme focuses on three main goals: maximizing the impact of existing interventions, increasing the affordability of key pharmaceuticals, and increasing investment in research and development of specific global public goods. In its Programme of Action, the Commission announced that it would work towards the introduction of tiered pricing as the norm for the poorest developing countries, as a means of ensuring access to affordable medicines. The Commission undertook also to examine the effects of factors other than the net import price, such as tariffs, taxes, and importation, distribution and local registration fees, on consumer prices in developing countries.

48. In parallel to these initiatives, the Commission also has promoted discussions within WTO, WIPO and WHO to address the relationship between the TRIPS Agreement and public health protection. The Commission has played an important role in the establishment of the Global AIDS and Health Fund and, in July 2001, hosted a meeting of stakeholders which led to the establishment of a transitional working group and a technical support secretariat. The EC has pledged an initial 120 million euros to the Fund. The Commission reported that it has taken steps to increase spending on its Research Framework programme, which currently contains 130 million euros for research on HIV, malaria and tuberculosis. The EC has begun to fund research on microbicides and new vaccines for HIV. Steps have been taken also to set up a body, the European Clinical Trials Platform, to increase the number and efficiency of testing in developing countries for new medical technologies and drugs. In a parallel initiative, more support is being given to the African testing network, such as the African Malaria Testing Network. These projects associate researchers from the South and North which, according to the Commission, promotes the sharing of intellectual property.

V. CONTRIBUTIONS FROM NATIONAL HUMAN RIGHTS INSTITUTIONS

49. The National Human Rights Commission of France reported that it is taking steps to implement resolution 2001/33 and will keep the Commission informed of its activities.

50. In 1995, the National Human Rights Commission of Mexico set up a Programme on the Disabled, Persons with HIV/AIDS and the Elderly, which is run by a working group comprising staff of the Complaints Bureau, the Inspectorates-General and the Executive and Technical Secretariats. The working group's tasks are to address complaints from persons infected with or affected by HIV/AIDS; to change negative attitudes associated with HIV/AIDS; and to carry out studies in order to increase knowledge and awareness of HIV and AIDS among civil servants and society as a whole. The Commission noted that the majority of complaints it receives relate to the absence or inadequacy of public health care; violations of the rights of people living with HIV and AIDS; medical negligence; denial of medical care; failure to notify a person of their HIV/AIDS status; denial of social security benefits; and wrongful disclosure of an HIV-positive or AIDS condition. On the basis of these complaints, the Commission has made recommendations related to the treatment of HIV-positive prisoners, in particular to ensure that inmates and staff are informed about programmes of prevention, detection, care and treatment of HIV/AIDS; voluntary, confidential HIV testing for prison inmates; appropriate medical care and

treatment; and appropriate training for medical staff. In July 2000, the Commission entered an agreement regarding cooperation with the National Medical Arbitration Commission to establish mechanisms for cooperation to enhance the care given to users of public health services.

51. As a result of these activities, the Commission has raised awareness of the need to respect the human rights of people living with HIV/AIDS; helped to improve the situation of those affected by HIV held in detention; fostered communication between the Commission and the National Centre for the Prevention and Control of HIV/AIDS; promoted an environment which discourages discrimination and exclusion of people living with HIV/AIDS; and helped to change negative attitudes towards people living with HIV/AIDS while seeking a social commitment in the struggle to halt the spread of HIV and prevent the stigmatization of its sufferers. The Commission highlighted several remaining challenges including limited resources for HIV treatment and care, and the persistence in Mexico of certain attitudes towards sex which preclude an open discussion of the issues surrounding HIV/AIDS.

52. The New Zealand Human Rights Commission drew attention to the prohibited grounds of discrimination in New Zealand's Human Rights Act (1993), including "the presence in the body of organisms capable of causing illness", which effectively guarantees to people living with HIV/AIDS equal access to medication. The Commission drew attention to the fact that, unlike many countries, New Zealand can afford to maintain a reasonable degree of access to new treatments and technologies, and expressed its support for international efforts to improve access to medication for pandemics such as HIV/AIDS. The Commission noted, however, that investment in vaccine research lags behind investment in the development of antiretroviral drugs and medication for the treatment of opportunistic infections, and cautioned against the pursuit of improved access to treatment at the expense of efforts to develop preventive technologies including vaccines.

VI. CONTRIBUTIONS FROM NON-GOVERNMENTAL ORGANIZATIONS

53. The International Council of AIDS Service Organizations (ICASO) recalled the International Guidelines on HIV/AIDS and Human Rights, which provide guidance for Member States, United Nations system and regional intergovernmental bodies, and non-governmental organizations on a comprehensive framework for policy and law reform to limit the spread of HIV and reduce the impact of HIV and AIDS. ICASO requested the Commission on Human Rights to take further steps toward the implementation and monitoring of compliance by Governments with the Guidelines.

54. ICASO noted that access to basic primary care, including affordable medicines, should be guaranteed at the local level and suggested that guidelines should be developed to ensure reliable and effective distribution of such care. ICASO recalled that inequities have long existed between developing and developed countries in access to treatment for diseases including tuberculosis and malaria, and noted that advances in health care in developed countries have had little effect on what is available to the developing world.

55. According to ICASO, the HIV/AIDS pandemic has served to sharpen international awareness of these disparities. Attention is now being paid to areas such as essential drugs, infrastructures and service delivery, human rights and appropriate health technologies. ICASO recently conducted research to assess country responses in improving access to HIV/AIDS treatment within the framework of the International Guidelines on HIV/AIDS and Human Rights, and specifically on how civil society has participated in the implementation of guideline 6 regarding the provision of safe, effective and affordable medication. ICASO called for the advancement of the discussion on infrastructure issues related to HIV/AIDS care and treatment, and for a strengthening of community-based response to the epidemic. ICASO suggested the need for regular reporting on the status of HIV/AIDS treatment throughout the world and asked that the United Nations lead the process of designing and monitoring these reports, in close consultation with community groups around the world.

56. In its contribution, the International Council of Nurses (ICN) voiced its support for a human rights approach to health issues, including through increased access to medicines for people living with HIV/AIDS. It drew attention to its efforts to lobby United Nations agencies and member States to provide essential services, access to essential medicines, and increased access to care and support for people living with HIV and AIDS. The ICN, in partnership with UNAIDS and WHO, has developed Fact Sheets on HIV/AIDS for Nurses and Midwives which promote access to antiretroviral drugs for people living with HIV/AIDS. ICN also has developed a Fact Sheet on Mobilizing Nurses for HIV/AIDS Prevention and Care and Guidelines for Reducing the Impact of HIV/AIDS on Nursing and Midwifery Personnel.

57. The Council for International Organizations of Medical Sciences reported two initiatives relevant to the question of access to medication. The Council currently is revising its 1993 International Ethical Guidelines for Biomedical Research Involving Human Subjects. It also has initiated a project on pharmacogenetics and pharmacoeconomics.

58. Médecins sans frontières (MSF) noted that one third of the world's population does not have access to essential, life-saving drugs. MSF's Campaign for Access to Essential Medicines was launched in 1999 in an effort to find long-term, sustainable solutions to this problem. The Campaign is pushing to lower the prices of existing medicines in developing countries, to bring abandoned drugs back into production, to stimulate research and development for neglected diseases that primarily affect the poor, and to overcome other barriers to access.

59. MSF supports a combination of policies to lower drug prices on a sustainable basis, including by encouraging competition with generics, voluntary discounts on branded drugs, global procurement and local production. MSF is also pushing for increased research into neglected diseases - such as tuberculosis, malaria, sleeping sickness and leishmaniasis - through increased funding, investing in research and development capability in developing countries, and supporting alternative models for research and development. To address the issue of abandoned drugs, MSF is calling on companies and Governments to find solutions to bring unprofitable but medically necessary drugs back into production. MSF is also supporting developing countries in codifying into law the "safeguards" that are allowed under international trade rules in order to protect access to medicines.

VII. CONCLUSIONS

60. The urgent need to improve access to prevention, treatment and care for people living with HIV/AIDS is clear. An estimated 40 million people are now living with HIV around the world. Around 15,000 people are newly infected with the virus every single day. The significantly different survival rates for people living with HIV/AIDS in rich versus poor countries and communities is a direct result of unequal access to affordable treatment and adequate health services. Mother-to-child transmission continues to spread, particularly in developing countries, despite the availability of drugs to reduce this risk. For the vast majority of people living with HIV and AIDS, life-saving antiretroviral medication remains inaccessible.

61. International and national resolve to ensure effective HIV/AIDS prevention, treatment and care is growing. Many States have committed themselves, at the national level, to improving care, support and treatment and to ensure access to affordable medication for those infected with and affected by HIV/AIDS. States have pledged, at the United Nations General Assembly special session on HIV/AIDS, to develop national strategies to strengthen health-care systems and address factors affecting the provision of HIV-related drugs, including affordability and pricing. They have agreed, at the World Conference against Racism in Durban, to strengthen national mechanisms to promote and protect the human rights of victims of racism who are infected, or presumably infected, with HIV, and to take concrete measures to ensure access to medication and treatment. By adopting the Declaration on the TRIPS Agreement and Public Health, WTO member States have sent an important signal regarding the need to balance intellectual property rights against public health priorities, such as HIV/AIDS, for developing countries. These important steps must be translated into effective action towards realizing the human rights, and the right to health in particular, of the children, women and men living with HIV and AIDS around the world.